

Approved August 5, 2015

BE IT REMEMBERED THAT the Crook County Court met in a Regular Session on May 20, 2015 at 9:00 in the County meeting room located at 320 NE Court Street, Prineville Oregon. In attendance were: County Judge Mike McCabe; County Commissioner Ken Fahlgren; County Commissioner Seth Crawford; County Counsel Jeff Wilson; Assistant County Counsel Eric Blaine and County Court Secretary Colleen Ferguson.

Members of the public signing the attendance log were: Jerry and Darlene Harpster, Prineville; Craig Kilpatrick, Redmond; Priscilla Johnson, Crook County Soil & Water Conservation District (CCSWCD) and Bill Mintiens, Jakie Spring Media.

The media received notification of the meeting.

Judge McCabe called the meeting to order at 9:00 a.m.

Priscilla Johnson led the Pledge of Allegiance.

Consent Agenda

1. Approve Order 2015-27, appointment to Housing Works and Specials Transportation Fund Board and Committee
2. Approve Order 2012-15, Amendment No. 1, Establishing a policy for the future use of land acquisition proceeds related to the sale of real property along Baldwin Road to Apple, Inc.
3. Approve Order 2014-54, Updated list of Persons Authorized to Detain Persons Based on Mental Health Concerns
4. Approve Amendment #3, IGA with Lane County for online food handler card applications
5. Approve 2015-16 APHIS work and financial plan
6. Approve wolf depredation grant agreement, Oregon Dept. of Agriculture
7. Approve Memorandum of Understanding and Cooperative Improvement Agreement/ Millican Road
8. Approve and sign listing agreements with Crook County Properties LLC to market County foreclosed properties
9. Approve 2015 Oregon Parks & Rec Dept. ATV grant award
10. Approve Early Learning Division 2013-2015 County IGA #9744—Mixed Funds Agreement—Amendment 4
11. Approve Landfill Leachate Recirculation System purchase

The Court reviewed the Consent Agenda and discussed item number six, Wolf Depredation grant agreement.

Motion

Commissioner Fahlgren moved to approve the Consent Agenda items as presented. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

12. **9:00 a.m. Priscilla Johnson presentation update on Crook County Soil and Water Conservation District (CCSWCD) projects and operation**

Priscilla Johnson, CCSWCD, thanked the County for \$5,000 last year for the Sage Grouse and CCAA project. She provided information on grants written and awarded to support staff over the five counties with this project. NRCS will administer \$19 million dollars for Sage Grouse restoration, \$2 million for Crook County. NRCS

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will have a designated person to work with landowners. Ten landowners have signed up so far. Discussion was held regarding the Paulina area and Sage Grouse issues. Medusa is another issue for Sage Grouse.

Judge McCabe and Ms. Johnson advised the Court and public that Mr. Bentz was killed recently in a plane crash. He has been immense help in the entire CCAA project.

Ms. Johnson thanked the Court for all their support for the Crook County Soil and Water Conservation District.

13. Consider adoption of final written decision in the Goering Matter, LUBA remand/ Jeff Wilson

County Counsel Jeff Wilson presented the Final Decision and Findings of Fact and Conclusions of Law for the Goering remand. The written decision before the Court today is consistent with the Courts deliberations on Friday April 24, 2015, and the decision to remove the Goering property from the Deer and Antelope Overlays and approve the proposed amendment to the Rural Aviation Community (RAC) zone.

Major findings are summarized below:

- To implement its Goal 5 policies related to wildlife, the County Court accepts applicants' recommendation to amend the RAC zone by removing the subject property from the current wildlife overlays.
- The subject property provides poor winter habitat for the identified wildlife (deer and antelope); presents potential consequences from aircraft-wildlife collisions, and is subject to the State Airport Protection Act that supports and encourage various aviation-related uses.
- Consequently, the County Court concludes it should fully allow the conflicting uses and remove the subject property from all applicable Goal 5 Big Game Wildlife Inventory sites.
- The County Court also accepts applicant's request to amend the RAC zone to clarify the number of permissible dwellings and to establish density requirements.
- Those density requirements apply the one dwelling per 20 acres authorized by Ordinance 259 and the one dwelling per each 80 acres under former CCCP Wildlife Policy 2.
- By virtue of applicant's ESEE analysis, amending the RAC zone and removing the subject property from the inventory of protected sites, the findings and conclusions contained in the written decision demonstrate compliance with Goal 5.

Motion

Commissioner Crawford moved to approve the final written decision as presented today. Commissioner Fahlgren seconded the motion. The vote was 3-0, motion carried.

Since the meeting was running ahead of schedule, Judge McCabe moved the discussion item on Moffit Road up.

16. Order 2015-17, Vacating a portion of Moffit Road (without a hearing)

Mr. Wilson presented information reviewing the meeting of May 6, 2015 when this matter was discussed originally. He explained the County responsibility on Moffit road. County Counsel contacted Mr. Raasch, the petitioner, and explained the additional information needed including a legal description and notarized consent from Iberdola and Kevin Spencer, or an extended legal description of the property. He recommends a denial of the vacation at this time until the information is received.

Mr. Wilson said depending on the Court, they could refund or hold the funds.

Motion

Commissioner Fahlgren moved to deny Order 2015-17 in the matter of vacation of a portion of Moffit Road and credit Mr. Raasch for when he resubmits the application. Court will give credit for the current fee so long as Mr. Raasch resubmits within 60 days. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

14. Review proposals for Roundtree asphalt overlay project, recommendation and award

The Court and Counsel discussed the Roundtree Asphalt Overlay Project. An RFP was put out and there were none of the interested bidders here at the meeting today for the award of the paving project on the subdivision that original developers have defaulted on the improvement, the property was foreclosed on and the bank now owns it. Under the law, is the County obligated to perform the work due to the bonding of the subdivision and plat being recorded? The assurance of work to be done is the bonds as required. The bond is not enough to cover the improvement costs of wells and roads. The road portion is figured at \$63,000 and engineer costs for the road project would be \$12,500, totaling \$75,500 for a low bid. Mr. Blaine could not recommend going forward knowing that funds are not adequate. He recommends cancelling the RFP and contacting the bidders. This would allow time for the County to review options.

Discussion was held regarding advising the new owner of the exceeded costs over the funds available and asking if he would consider paying the overage. Mr. Blaine said in his discussion with the new owner that the owner might pay the overage of paving but not the cost for the engineer. Mr. Blaine's recommendation again was to cancel the RFP.

Planning Director Bill Zelenka presented other options including saving the cost of the engineer by having the Road Department Roadmaster cover the engineering duties. That would result in a cost in time for the County, and the question would have to be put to the Roadmaster. Mr. Blaine said he would explore this option and is uncomfortable springing it on the Roadmaster. This road is not a County maintained road, and they do not want to be farmed out or take the work away from the engineers. Mr. Blaine said it is worth exploring, there are many factors to be considered and the Road Department Roadmaster, Bob O'Neal, has said he really is not interested.

Discussion was held regarding the law that does not require the County to complete the improvements. The developers did not provide enough money. Originally, the bond was \$88,000. The County agreed to \$88,000 and it would have paid for the road work. That total amount was never deposited in the account. There have been no developed lots or other lots sold at this time. If sold, the building permit could be denied. Commissioner Crawford and Eric Blaine discussed whether the owner understands the possibility of a building permit being denied. Discussion was held regarding going to court over the matter. Judge McCabe asked Mr. Blaine to talk to the new owner and tell them that the County

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will provide the funds that are available. Mr. Zelenka discussed release of the funds to the new owner if he would agree to an RFP for bids for the job and have an engineer stamp the completion. The owner was not interested in having the bank account signed over to him. The Court discussed putting the engineer on hold after he does the original work, and that sometimes a private developer can get the work done for less.

Motion

Commissioner Crawford moved to postpone the awarding of the contract for 30 days. Commissioner Fahlgren seconded the motion. The vote was 3-0, motion carried.

Mr. Blaine advised the Court that High Desert's bid was the lowest with Perrigo the next lower. Both are responsible bidders. He discussed any problems with the bids, the time frame of the bid and project and the findings that could be made.

Mr. Blaine reviewed the steps as proposed today: The Court will postpone making any findings today with June 17, 2015 being the last date that findings can be made. The award could be postponed for 30 days and in the meantime, contact the property owner regarding payment of the overage, or the property owner accepts receipt of the bank account. Judge McCabe directed that the property owner be advised that this has to be done or buyers of the lots would have building permits denied until the work is done.

15. 10:00 a.m. PUBLIC HEARING, Order 2015-25, Hahlen Special Road District Annexation

A petition was received from Ronald Rupprecht, Gayle Rupprecht and Jeff Hjorth, owners of property in the Hahlen Road area to annex their property into the Hahlen Special Road District. The petition was filed in accordance with Oregon Revised Statute 198.850. The petition was approved by the District.

Today, the County Court heard the matter. Judge McCabe opened the Public Hearing at 10:07 a.m. on Order 2015-25, In the matter of annexation of Real Property into the Hahlen Special Road District. There were no comments received regarding Order 2015-25 and annexation. Judge McCabe closed the Public Hearing.

Motion

Commissioner Fahlgren moved to approve Order 2015-25, In the matter of annexation of Real Property into the Hahlen Special Road District. Commissioner Crawford seconded the motion. There was no further discussion. The vote was 3-0, motion carried.

DISCUSSION ITEMS

17. Discussion regarding jail bed rental

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Mr. Wilson presented a brief memo on the 7th Amendment to an agreement with Jefferson County for rental of jail beds. This agreement is for a minimum of 16 beds with additional as available and as needed up to 25 beds. The contracted jail bed cost will increase from \$64.95 per bed to \$65.92 per bed as per the Consumer Price Index (CPI) increase of 1.5 percent as agreed upon by Jefferson County. The Crook County Budget Committee authorized the additional nine beds during the yearly budget session.

District Attorney Daina Vitolins said she is grateful for the jail bed increase, and wondered if the County is contracting for 16 beds plus “as needed” or 25 beds now. She said she wanted it on the record that she wants 25 beds now. Ms. Vitolins discussed the custody list and explained how it is used in Court. She said 25 beds are needed and can be filled.

Sheriff Hensley said the County pays for 16 beds if used or not at this time. The County could pay for 25 beds every day, but can the County use the 25 beds? He said a Sheriff’s Deputy is over in Jefferson County almost every day, and the Corrections Deputy is making the decisions. Sheriff Hensley would like to sit down as a group and discuss how best to use the 25 beds making this the most efficient program possible, but also creating a savings by not paying automatically for all 25 beds.

Ms. Vitolins said she does not understand, because she can for sure fill 25 beds, and she does not like the “as available and as needed” portion of the agreement.

Discussion was held on the matrix system, the security money, bailing out or staying in to see the Judge on Monday if arrested on Friday or the weekend, and those arrested that are bailed out that do not come back.

There is a meeting on June 29, 2015 scheduled with the District Attorney, Crook County Circuit Judges, Correction and the Sheriff to discuss how best to use these beds.

The management of the Jefferson County Jail was held, and discussion regarding asking for 25 beds but only billed for the amount used was held. Judge McCabe agreed with Ms. Vitolins that the County can fill the 25 beds and that word needs to get out to the Community. Ms. Vitolins said there are 123 people waiting to serve sentences at this time. Judge McCabe said there are people coming into the jail that cannot be turned out through the matrix system, and the County can fill 25 beds.

A lengthy discussion on agreement language was held regarding the matter. Sheriff Hensley finished by saying the County will rent 25 beds, and he will be talking with Jefferson County Sheriff Jim Adkins regarding costs depending on the beds used.

Darlene Harpster asked for clarification on who would be using the nine more beds, juveniles or adults. The Court explained there are 25 adult beds, two are parole and probation and seven are available for no release prisoners. There are no juveniles involved in this matter.

There being no further scheduled business at this time, Judge McCabe adjourned the Court into Executive Session under ORS 192.660(2)(h) To consult with counsel concerning legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

EXECUTIVE SESSION

- 19. ORS 192.660(2)(h) To consult with counsel concerning legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.**

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The Court discussed this matter with Legal Counsels. Following the discussion, Judge McCabe adjourned the Court out of Executive Session under **ORS 192.660(2)(h)** To consult with counsel concerning legal rights and duties of a public body with regard to current litigation or litigation likely to be filed and back into Open Session.

Open Session

Judge McCabe convened the Court into Open Session following the Executive Session under **ORS 192.660(2)(h)** To consult with counsel concerning legal rights and duties of a public body with regard to current litigation or litigation likely to be filed and back into Open Session, and invited any members of the public waiting back into the room. The Court went forward with motions regarding the matters discussed in Executive Session

Motion

Commissioner Fahlgren moved to direct staff to declare a default for the Roundtree Development. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

Motion

Commissioner Crawford moved to direct staff to communicate with the counter party as discussed in Executive Session. Commissioner Fahlgren seconded the motion. The vote was 3-0, motion carried.

There being no further action items before the Court today, Judge McCabe adjourned the meeting.

Respectfully submitted,

Colleen Ferguson

Colleen Ferguson
Crook County Court Secretary